

DISABILITY INSURANCE PROGRAM
FREQUENTLY ASKED QUESTIONS (FAQ)

Section 5.0: Leave

(PREPARED FOR MERIT AGENCIES)

(Effective August 1, 2010)

Disclaimer—

If there is any conflict in interpretation between the FAQs and the Short-Term Disability (STD) and Long-Term Disability (LTD) program contract provisions and existing law, the contract provisions and/or law govern.

Q 5.1 Use of Available Leave during Short-Term Disability (STD)--Since Short-Term Disability (STD) will pay 75% of the employee's base pay, can the employee use accrued leave for the other 25%?

A 5.1 Employees are eligible to request to use available leave on a daily basis to bring their pay up to 100% of base pay during the time they are on STD. However, Family and Medical Leave (FMLA) rules on leave usage apply when the two leaves are running concurrently. (FAQ 5.11)

Q 5.2 Holiday Pay--Are employees entitled to Holiday Pay during Short-Term Disability (STD)?

A 5.2 If the employee is otherwise eligible for holiday pay or a paid leave other than identified in Title 29 §5253 (b) (4), the employee will be granted 100% pay on the day in question without a residual. All leave supplements will be calculated on a pay period basis.
Example: An employee is receiving STD benefits on July 4th. The employee would receive 75% base wages STD and the 25% balance of the day would be paid holiday, no other leave would be charged for the day. No additional holiday hours would be paid or banked for the day.

Q 5.3 Leave Accrual during Short-Term Disability (STD)--Will the employee accrue annual and sick leave while on Short-Term Disability (STD)?

A 5.3 Yes, the employee will accrue annual and sick leave at a 75% accrual rate if the employee does not use accrued leave to supplement their pay or the employee will accrue leave at a 100% if the employee makes up the 25% difference with accrued leave.

Q 5.4 Use of Accrued Leave--During Short-Term Disability (STD) can the employee use accrued leave earned each month?

A 5.4 The employee has two basic options:
1. The employee may choose to use their monthly leave accrual consecutively starting on the 1st workday of the month to supplement the 75% STD with 25% available leave until the leave is exhausted. However, it must be utilized consecutively rather than on specific dates of the employee's

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choosing that month; or

2. The employee may choose to retain their leave accrual and save it for payout at the time the employee goes onto Long-Term Disability (LTD) or on a service pension. The employee may also choose to save their leave accrual for use after they return from STD.

If the employee chooses Option #1 they will continue to receive 100% leave accrual and receive all holidays that occur during the month at 100%.

If the employee chooses Option #2 they will accrue leave at 75% and receive holidays at 75%. (If on FMLA and/or Donated Leave the employee must comply with the rules that apply to those programs.)

Q 5.5 Leave Accrual during 30 calendar day elimination period--How is leave accrued during 30 calendar day elimination period and start of Short-Term Disability (STD).

- A 5.5**
- a) If the employee is in a no pay status for the 30 calendar day elimination period leave accrual stops. The employee should receive leave accrual prorated for the portion of the month they last worked and a prorated amount of leave for the portion of month in which they receive STD.
 - b) **STD –Examples of 30 calendar day elimination period and leave accrual—**
 - Employee goes into a no pay status from September 1 to September 30 and on October 1 the employee receives 75% STD and does not supplement with 25% available leave. The employee would not receive leave accrual for the month of September but for each subsequent month would receive a 75% accrual of leave.
 - Employee goes into a no pay status from September 16 to October 15 and the employee receives 75% STD and supplements with 25% available leave beginning October 16. The employee would receive a prorated leave accrual for September 1 through September 15 inclusive, no leave for September 16 through October 15, inclusive and prorated leave from October 16 through October 31. On November 1 the employee would receive full leave accrual for the month of December.
 - Employee goes into a no pay status from September 16 to October 15 and the employee receives only the 75% STD beginning October 16 and opts not to supplement with 25% leave. The employee would receive a prorated leave accrual for September 1 through September 15 inclusive, no leave for September 16 through October 15, inclusive and prorated leave from October 16 through October 31. On November 1 the employee would receive 75% accrual of leave for the month of December.

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Q 5.6 Family Medical Leave (FMLA) during Short-Term Disability (STD)--If the employee applies for Short-Term Disability (STD) is the employee still required to apply for Family Medical Leave (FMLA)?

A 5.6 Yes, the FMLA allows each employee who meets the eligibility requirements, job and medical benefits protection for a period of 12 weeks/year of unpaid leave. The law permits the employer to run the 12 week period concurrent with paid leaves if so stipulated.

STD, following a 30 calendar day elimination period, pays 75% of the employee's wage for the completion of the six month covered period and will run concurrent with FMLA.

Q 5.7 Short-Term Disability (STD) ends--What happens when the 6 month Short-Term Disability (STD) ends?

A 5.7 Upon the exhaustion of the maximum short-term disability benefit period, the employee shall no longer be an employee of the State or any of its political subdivisions*. The former employee has two options:

1. Escrow Leave--Prior to the commencement of LTD the former employee is allowed to make a written request to escrow the accrued annual and sick leave for a period of six months.
2. OR Payout of Leave--upon the commencement of long-term disability benefits the former employee shall be eligible to receive a payoff of accrued unused annual and sick leave based on the rules in place by the employer.

If the former employee chooses Option #1 the leave will be escrowed for a maximum period of 6 months. Once the former employee has returned to full-time State employment in a benefit eligible position for 30 calendar days within the 6 month escrow period the leave balances will be returned. If the former employee fails to return as stipulated the leave will be paid out based on the rules in place by the employer.

If the former employee chooses Option #2 upon commencement of approved LTD the leave will be paid out based on the rules in place by the employer. Should the former employee subsequently return to full-time State employment in a benefit eligible position the leave balance will be zero. While on LTD the former employee is no longer eligible for holiday pay, leave accrual or any other leave.

* Employees on Workers' Compensation supplement for hazardous duty of one year or employees who are still under FMLA protection will not be separated until the exhaustion of the supplement or the FMLA time.

DISABILITY INSURANCE PROGRAM
FREQUENTLY ASKED QUESTIONS (FAQ)

Section 5.0: Leave

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- Q 5.8 Annual Leave Carryover during Short-Term Disability (STD)--Does the employee lose annual leave if the employee has excess annual leave to carryover into the new year due to being out on Short-Term Disability (STD) and unable to use enough annual leave before the end of the calendar year?**
- A 5.8 The provisions in Merit Rule 5.2.4 continue to apply. Agencies may request approval from the Director to carry over annual leave in excess of the maximum amount. Please note, being on STD is not sufficient justification for making such a request.**
- Q 5.8 a Annual Leave Carryover during 6 month escrow period while on Long-Term Disability (LTD)--Does the employee lose annual leave if the employee has excess annual leave to carry over into the new year while leave is being escrowed due to being out on Long-Term Disability (LTD) and ineligible to use any leave?**
- A 5.8 a The provisions in Merit Rule 5.2.4 continue to apply. Agencies may request approval from the Director to carry over annual leave in excess of the maximum amount. Please note, going on LTD is not sufficient justification for making such a request.**
- Q 5.9 Donated Leave--Can the employee use Donated Leave during Short-Term Disability?**
- A 5.9 Donated Leave may be used during the 30 calendar day elimination period of STD. However, regardless of whether a claim was filed with The Hartford in a timely manner, Donated Leave is not to continue following the 30 calendar day elimination period until STD has been approved and the employee continues to be in an STD approved status. Upon approval of STD the agency may apply Donated Leave retroactively for the 25% not covered by STD.**
- Q 5.10 Payment of Accrual During Pending Status--If the employee is in a pending status with The Hartford, should we pay the employee leave accrual or is the employee to be docked until we receive an approval from The Hartford?**
- A 5.10 Provided the employee filed their claim in a timely fashion (notified The Hartford by the 15th calendar day following the first day of absence for the disability) the employee may continue to use available sick/annual leave only. Upon approval of STD and while the employee remains in an approved STD status, the agency may apply Donated Leave retroactively for the 25% not covered by STD (FAQ 5.9).**
- Q 5.11 FMLA and STD--When the employee is on FMLA and receiving STD is the employee required to supplement the 75% STD with 25% available leave?**

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FREQUENTLY ASKED QUESTIONS (FAQ)

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- A 5.11 While on FMLA the employee may only retain one week each of sick and annual leave, accruals that would exceed the allowable one week each of sick and annual leave must be used as earned. Once the employee has exhausted FMLA FAQ 5.4 applies.
- Q 5.12 **Probationary Period--Is a former employee returning to State employment from long-term disability (LTD) required to satisfy a new probationary period?**
- A 5.12 Yes--Merit Rule 9.5 states "Upon reinstatement, employees who left the Merit System shall be required to serve an initial **probation** period." This Merit Rule applies to all individuals being reinstated who left our employ including those who are returning from LTD.
- Q 5.13 **Donated Leave Eligibility following LTD--When is an employee returning to State employment from long-term disability (LTD) eligible for Donated Leave?**
- A 5.13 Since eligibility for Donated Leave is based on aggregate service if the employee has 6 months aggregate service with the State they would be eligible for Donated Leave immediately upon reinstatement. The absence itself must otherwise meet the criteria of an absence due to an illness of the employee or covered family member of greater than 5 weeks (or equivalent) and the employee has exhausted accrued sick leave and half of their annual leave (or all of annual leave if the absence is to care for a covered family member).
- Q 5.14 **FMLA Eligibility following LTD--When is an employee returning to State employment from long-term disability (LTD) eligible for FMLA?**
- A 5.14 The employee is eligible upon meeting the standard FMLA eligibility requirements of:
- 12 months **aggregate** employment
 - Have worked 1250 hours in the twelve months immediately preceding the absence;
 - And has not exhausted their 12 week entitlement within the most recent rolling 12 month period.
- Q 5.15 **Reduced Schedule Affect on Holiday Pay and Leave Accruals--If an employee is rehired from Long-term disability in a Merit position on a reduced work schedule is the employee entitled to paid holidays and leave accruals?**
- A 5.15 If the reduced work schedule is expected and/or does exceed 30 calendar days the employee should be considered permanent part-time for the purposes of holiday pay and leave accruals which shall be pro-rated based on scheduled hours. The status of permanent part-time would continue until such time as the employee is release to

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work normal workweek of 37.5 or 40.0 hours. For examples of holiday pay please refer to those provided in the HR Procedures Manual at [Human Resource Procedure Manual](#) Leave would accrue based on percentage of whole.

Q 5.16 Floating Holidays--Is an employee entitled to Floating Holiday Pay during Short-Term Disability (STD)?

A 5.16 If an employee is otherwise eligible for floating holiday pay or a paid leave other than identified in Title 29 §5253 (b) (4), the employee will be granted 100% pay on the day in question without a residual. All leave supplements will be calculated on a pay period basis.
Example: An employee is receiving STD benefits the employee would receive 75% base wages STD and the 25% balance of the day would be paid floating holiday, no other leave would be charged for the day. No additional float holiday hours would be paid or banked for the day.